

## **ARTICLE 11. FEES AND TAXES**

### **5:12-139 Casino license fees**

a. The commission shall, by regulation, establish annual fees for the issuance or renewal of casino licenses. The issuance fee shall be based upon the cost of investigation and consideration of the license application and shall be not less than \$200,000.00. The renewal fee shall be based upon the cost of maintaining control and regulatory activities contemplated by this act and shall be not less than \$100,000.00 for a one-year casino license and \$200,000.00 for a four-year casino license.

b. The Attorney General shall certify to the commission actual and prospective costs of the investigative and enforcement functions of the division, which costs shall be the basis, together with the operating expenses of the commission, for the establishment of annual license issuance and renewal fees.

c. A nonrefundable deposit of at least \$100,000.00 shall be required to be posted with each application for a casino license and shall be applied to the initial license fee if the application is approved.

L.1977, c. 110, § 139, eff. June 2, 1977.

Amended by:

L.1987, c. 348, § 2, eff. Jan. 4, 1988.

L.1995, c. 18, § 41, eff. Jan. 25, 1995.

### **5:12-140 License fee on slot machines**

a. In addition to any other tax or fee imposed by this act, there is also hereby imposed an annual license fee of \$500.00 upon every slot machine maintained for use or in use in any licensed casino establishment in this State.

b. License fees imposed under the provisions of this section shall be imposed as of the first day of July of each year with regard to all slot machines maintained for use or in use on that date, and on a pro rata basis thereafter during the year with regard to all slot machines maintained for use or placed in

use after July 1.

L.1977, c. 110, § 140, eff. June 2, 1977.

Amended by:

L.1979, c. 198, § 1, eff. Sept. 18, 1979.

#### **5:12-141 Fees for other than casino licenses**

The commission shall, by regulation, establish fees for the investigation and consideration of applications for the issuance and renewal of registrations and licenses other than casino licenses, which fees shall be payable by the applicant, licensee or registrant.

L.1977, c. 110, § 141, eff. June 2, 1977.

Amended by:

L.1981, c. 503, § 22, eff. Feb. 15, 1982.

L.1987, c. 354, § 20, eff. Jan. 4, 1988.

#### **5:12-141.1 Fees to recoup costs of the division or commission**

The commission may, by regulation, establish fees to recoup the costs of services, equipment or other expenses that are rendered, utilized or incurred by the division or commission, including any unusual or out of pocket expenses directly related thereto, in response to requests arising under P.L.1977, c. 110 (C. 5:12-1 et seq.) that are unrelated to the investigation or consideration of the issuance or renewal of a registration or license.

L.2002, c. 65, § 31, eff. Aug. 14, 2002.

#### **5:12-142 Repealed by L. 1991, c. 182, § 61, eff. June 29, 1991.**

#### **5:12-143 Casino control fund**

a. There is hereby created and established in the Department of the

Treasury a separate special account to be known as the "Casino Control Fund," into which shall be deposited all license fee revenues imposed by sections 139, 140, 141, and 142 of this act.

b. Moneys in the Casino Control Fund shall be appropriated, notwithstanding the provisions of P.L. 1976, c. 67 (C. 52:9H-5 et seq.), exclusively for the operating expenses of the commission and the division.

L.1977, c. 110, § 143, eff. June 2, 1977.

### **5:12-144 Tax on gross revenues**

a. There is hereby imposed an annual tax on gross revenues as defined in section 24 of this act in the amount of 8% of such gross revenues.

b. Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1978, and ending before January 1, 1984 and based upon a determination that in said return or any annual return for a calendar year during that period the gross revenue of a licensee in the calendar year upon which the tax is based exceeds the cumulative investments in this State of said licensee as of that year, such licensee shall make investments in an amount not less than 2% of the gross revenue for said calendar year within a period of five years from the end of said calendar year. Fifty percent of the investments required by this subsection as a result of any of the three annual tax returns commencing with the first annual tax return for any calendar year beginning after December 31, 1978 shall be made in the municipality in which the licensed premises are located, and 50% of such investments shall be made in any other municipality of this State. Twenty-five percent of the investments required by this subsection as a result of any annual tax return subsequent to the third such return in a series of returns the first of which is for a calendar year beginning after December 31, 1978 shall be made in the municipality in which the licensed premises are located, and 75% shall be made in any other municipality of this State.

All investments and cumulative investments made pursuant to this subsection shall be subject to a determination by the commission as to the eligibility of such investments. In determining eligibility, the commission shall consider the public interest, including the social and economic benefits to be derived from such investments for the people of this State.

c. For the purposes of this section, "investments" means equity investments in land and real property on which improvements are made and in real property improvements. For the purposes of this section, "cumulative investments" means investments in and debt financing of the licensed premises, plus other investments in and debt financing of land and real property on which improvements are made and real property improvements; provided, however, that the investments and debt financing not associated with the licensed premises have been subsequent to July 6, 1976. Real property and real property improvements sold or otherwise disposed of by the licensee shall not be included for the purposes of determining cumulative investments.

d. For the purposes of satisfying the amount of investments in any given year and of determining cumulative investments as of any given year, pursuant to subsection b., contributions of money or realty shall be included if the commission determines that such contributions best serve the public interest and either (1) directly relate to the improvement, furtherance, and promotion of the tourist industry in this State through the planning, acquisition, construction, improvement, maintenance and operation of recreational, entertainment, and other facilities for the public, including, without limitation, a performing arts center, the beaches and shorefront of this State, and transportation facilities providing or enhancing service in resort areas of this State, or (2) directly relate to the improvement, furtherance, and promotion of the health and well-being of the people of this State through the planning, acquisition, construction, improvement, maintenance, and operation of a facility, project or program approved by the commission.

e. In the event that the investments required in subsection b. of this

section are not made within the time set forth herein, there shall be imposed an investment alternative tax in an amount equivalent to 2% of gross revenue, which tax shall be added to the tax determined under subsection a. of this section and shall be due and payable in accordance with section 148 of P.L. 1977, c. 110 (C. 5:12-148). For the purposes of determining whether the investment alternative tax shall be paid, the State Treasurer shall certify, under such rules and regulations as he shall promulgate consistent with the provisions of this article, the amount of cumulative investments made by each licensee. In the event of the sale or other disposition of the licensed premises, any investment obligation imposed by subsection b. which is not satisfied shall be immediately deemed due and payable as investment alternative tax, and said amount shall constitute a lien upon the licensed premises until paid, together with interest at the rate specified in the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes; provided, however, that the appointment of a conservator under section 31 of P.L. 1978, 7, shall not constitute a sale or other disposition of the licensed premises within the meaning of this subsection, and provided further that if, in the judgment of the commission, a sale or other disposition does not significantly affect the operations of a casino licensee with respect to such premises, the commission may permit the investment obligation imposed on such licensee to continue under such conditions as the commission may deem appropriate.

f. The commission shall promulgate rules and regulations consistent with the provisions of this article as to the eligibility of the investments and cumulative investments required by this section.

g. The Casino Reinvestment Development Authority shall, simultaneous with the initial exercise of its general powers and responsibilities pursuant to section 39 of P.L. 1984, c. 218, assume and exercise all powers and responsibilities and make all determinations necessary to the administration of subsections b. through f. of section 144 of P.L. 1977, c. 110 (C. 5:12-144) theretofore exercised or made by the commission, including the resolution of all

matters then pending before the commission. Subsequent to the initial exercise of its general powers and responsibilities by the Casino Reinvestment Development Authority, the commission shall make no further determinations of eligibility under this section except as may be necessary to enable a licensee to satisfy an investment obligation which is due in calendar year 1984, and shall have no further responsibility for planning or redevelopment activity with regard to the use of reinvestment funds generated by either subsections b. through f. of section 144 of P.L.1977, c. 110 (C. 5:12-144) or subsection b. of section 3 of P.L.1984, c. 218 (C. 5:12-144.1). All determinations of the commission made in accordance with this section shall be final and subject only to alteration by a decision of a court.

h. Notwithstanding any other provision of this section to the contrary, any investment required by this section which has not been commenced by a licensee as of the effective date of this 1984 amendatory and supplementary act, other than an investment which is necessary to enable a licensee to satisfy an investment obligation which is due in calendar year 1984, may only be satisfied through the purchase of bonds of the Casino Reinvestment Development Authority issued pursuant to sections 14 and 15 of P.L. 1984, c. 218 (C. 5:12-162 and 5:12-163), except that the date by which the investment shall be made, and the amount of the investment or investment alternative tax obligation, shall be that set forth in subsections b. and e. of this section.

Notwithstanding the provisions of subsections b. and c. of this section, any investment obligation which is due in calendar year 1984 which has not been commenced or satisfied by December 31, 1984 may, at the option of the licensee and with the approval of the Casino Control Commission, and in lieu of or in addition to making any other investment or contribution authorized by this section, be satisfied subsequent thereto by the purchase, or the agreement to make a purchase, of bonds of the Casino Reinvestment Development Authority. Any licensee desiring to exercise this option, with the approval of the Casino Control Commission, shall transfer and entrust the necessary amount

to the State Treasurer, who shall maintain the funds until the initial exercise by the Casino Reinvestment Development Authority of its general powers and responsibilities pursuant to section 39 of P.L.1984, c. 218. Immediately subsequent to the initial exercise of its general powers and responsibilities by the Casino Reinvestment Development Authority, the State Treasurer shall transfer any such entrusted funds to the Casino Reinvestment Development Authority for the purchase of bonds by the licensee in amounts equivalent to the amount of the funds deposited by the licensee with the State Treasurer. Until he transfers the funds to the Casino Reinvestment Development Authority, the State Treasurer shall be authorized to invest and reinvest such funds through the Director of the Division of Investment, who shall make such investments in accordance with written directions of the State Treasurer, without regard to any other law relating to investments by the Director of the Division of Investment. Any interest earned on the funds while they are entrusted to the State Treasurer shall accrue to the licensee and the Casino Reinvestment Development Authority in the same proportion as if the funds were held and invested by the Casino Reinvestment Development Authority pursuant to subsection m. of section 13 of P.L. 1984, c. 218 (C. 5:12-161).

The proceeds of all bond purchases made pursuant to this subsection shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income in accordance with the provisions of subsection f. of section 3 of P.L.1984, c. 218 (C. 5:12-144.1).

i. If a licensee has incurred an investment obligation which requires bonds to be purchased pursuant to the provisions of subsection h. of this section and the licensee purchases bonds of the Casino Reinvestment Development Authority issued pursuant to sections 14 and 15 of P.L.1984, c. 218 (C. 5:12-162, 5:12-163) in satisfaction of that obligation no later than six months after the adoption by the Casino Reinvestment Development Authority of rules and regulations pursuant to subsection j. of section 3 of P.L.1984, c.

218 (C. 5:12-144.1), the licensee shall be entitled to a reduction of its investment obligation in an amount determined by the Casino Reinvestment Development Authority, taking into account a current market discount rate from the date of the purchase to the date the purchase would have been required to be made. Any purchase of bonds made pursuant to this subsection shall first be used to satisfy the licensee's most recently incurred investment obligation. That purchase of bonds shall not constitute a credit against the tax provided for in subsection a. of section 3 of this 1984 amendatory and supplementary act.

L.1977, c. 110, § 144, eff. June 2, 1977.

Amended by:

L.1979, c. 198, § 2, eff. Sept. 18, 1979.

L.1984, c. 218, § 2, eff. Dec. 19, 1984.

**5:12-144.1 Investment alternative tax; credits; bond purchase contracts; project areas; allocation of moneys; Atlantic City housing facilities; accounting and returns; investment**

a. (1) Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1983, there is imposed an investment alternative tax on the gross revenues as defined in section 24 of P.L. 1977, c. 110 (C. 5:12-24) of the licensee in the amount of 2.5% of those gross revenues. The tax imposed with respect to each calendar year shall be due and payable on the last day of April next following the end of the calendar year. The State Treasurer shall have a lien against the property constituting the casino of a licensee for the amount of any tax not paid when due. No tax shall be imposed, however, on the gross revenues received by a licensee during the first 12 months of the operation of any casino that commences operation after January 1, 1984, but prior to the effective date of this act, P.L.1996, c. 118 (C. 5:12-173.3a et al.).

(2) A licensee shall pay to the State Treasurer on or before the 15th



day of the first, fourth, seventh, and 10th months of each year as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection an amount equal to 1.25% of the estimated gross revenues for the three-month period immediately preceding the first day of those months. The moneys received shall be placed in an escrow account and shall be held until the licensee directs that the moneys be transferred to the Casino Reinvestment Development Authority for the purchase of bonds issued by or offered through the Casino Reinvestment Development Authority or pursuant to a contract for such a purchase, be made available to the licensee for a direct investment approved by the authority, or be transferred to the Casino Revenue Fund as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection. Any interest derived from the moneys in the escrow account shall be paid or made available to the Casino Revenue Fund. If a licensee fails to pay the amount due or underpays by an unjustifiable amount, the Casino Control Commission shall impose a fine of 5% of the amount due or of the underpayment, as the case may be, for each month or portion thereof the licensee is in default of payment, up to 25% of the amount in default. Any fine imposed shall be paid to the Casino Reinvestment Development Authority and shall be used for the purposes of this 1984 amendatory and supplementary act.

b. Each licensee shall be entitled to an investment tax credit against the tax imposed by subsection a. of this section, provided the licensee shall pay over the moneys required pursuant to section 5 of P.L.1993, c.159 (C.5:12-173.5): (1) for the first 10 years of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and (2) for the remainder of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to

sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and twice the amount of investments made by a licensee in other approved eligible investments made pursuant to section 25 of this act. The Casino Reinvestment Development Authority shall have the power to enter into a contract or contracts with a licensee pursuant to which the Casino Reinvestment Development Authority agrees to issue and sell bonds to the licensee, and the licensee agrees to purchase the bonds issued by or offered through the Casino Reinvestment Development Authority, in annual purchase price amounts as will constitute a credit against at least 50% of the tax to become due in any future year or years. The contract may contain those terms and conditions relating to the terms of the bonds and to the issuance and sale of the bonds to the licensee as the Casino Reinvestment Development Authority shall deem necessary or desirable. The contract shall not be deemed to be in violation of section 104 of P.L.1977, c. 110 (C. 5:12-104). After the first 10 years of a licensee's investment alternative tax obligation, a licensee will have the option of entering into a contract with the Casino Reinvestment Development Authority to have its tax credit comprised of direct investments in approved eligible projects. These direct investments shall not comprise more than 50% of a licensee's eligible tax credit in any one year.

The entering of a contract pursuant to this section shall be sufficient to entitle a licensee to an investment tax credit for the appropriate tax year.

c. A contract entered into between a licensee and the Casino Reinvestment Development Authority may provide for a deferral of payment for and delivery of bonds required to be purchased and for a deferral from making approved eligible investments in any year, but no deferral shall occur more than two years consecutively. A deferral of payment for any bonds required to be purchased by a licensee and a deferral from making approved eligible investments may be granted by the Casino Reinvestment Development Authority only upon a determination by the Casino Control Commission that

purchase of these bonds or making approved eligible investments would cause extreme financial hardship to the licensee and a determination by the Casino Reinvestment Development Authority that the deferral of the payment would not violate any covenant or agreement or impair any financial obligation of the Casino Reinvestment Development Authority. The contract may establish a late payment charge to be paid in the event of deferral or other late payment at a rate as shall be agreed to by the Casino Reinvestment Development Authority. If a deferral of purchase or investment is granted, the licensee shall be deemed to have made the purchase or investment at the time required by the contract, except that if the purchase is not made at the time to which the purchase or investment was deferred, then the licensee shall be deemed not to have made the purchase or investment. The Casino Control Commission shall adopt regulations establishing a uniform definition of extreme financial hardship applicable to all these contracts. If a licensee petitions the Casino Reinvestment Development Authority for a deferral, the Casino Reinvestment Development Authority shall give notice of that petition to the Casino Control Commission and to the Division of Gaming Enforcement within three days of the filing of the petition. The Casino Control Commission shall render a decision within 60 days of notice as to whether the licensee has established extreme financial hardship, after consultation with the Division of Gaming Enforcement. The Casino Reinvestment Development Authority shall render a decision as to the availability of the deferral within 10 days of the receipt by it of the decision of the Casino Control Commission and shall notify the Division of Gaming Enforcement and the Casino Control Commission of that decision. If a deferral is granted, the Casino Reinvestment Development Authority may determine whether the purchases or investments shall be made in a lump sum, made over a period of years, or whether the period of obligation shall be extended an additional period of time equivalent to the period of time deferred.

d. The license of any licensee which has defaulted in its obligation to make any purchase of bonds or investment in any approved eligible project

under a contract entered into pursuant to subsection b. of this section for a period of 90 days may be suspended by the Casino Control Commission until that purchase is made or deferred in accordance with subsection b. of this section, or a fine or other penalty may be imposed upon the licensee by the commission. If the Casino Control Commission elects not to suspend the license of a licensee after the licensee has first defaulted in its obligation but instead imposes some lesser penalty and the licensee continues to be in default of its obligation after a period of 30 additional days and after any additional 30-day period, the commission may impose another fine or penalty upon the licensee, which may include suspension of that licensee's license. The fine shall be 5% of the amount of the obligation owed for each month or portion thereof a licensee is in default, up to 25% of that obligation; shall be paid to the Casino Reinvestment Development Authority; and shall be used for the purposes of this 1984 amendatory and supplementary act.

e. A contract entered into by a licensee and the Casino Reinvestment Development Authority pursuant to subsection b. of this section may provide that after the first 10 years of a licensee's investment alternative tax obligation imposed by subsection a. of this section, the Casino Reinvestment Development Authority may repurchase bonds previously sold to the licensee, which were issued after the 10th year of a licensee's investment alternative tax obligation, by the Casino Reinvestment Development Authority, if the Casino Reinvestment Development Authority determines that the repurchase will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority and that the licensee will reinvest the proceeds of the resale in an eligible project approved by the Casino Reinvestment Development Authority.

f. (1) During the 50 years a licensee is obligated to pay an investment alternative tax pursuant to subsection k. of this section, the total of (a) the proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in

eligible projects by a licensee shall be devoted to the financing of projects in the following areas and amounts:

Areas	Yrs 1-3	Yrs 4-5	Yrs 6-10	Yrs 11-15	Yrs 16-20	Yrs 21-25	Yrs 26-30	Yrs 31-35	Yrs 36-50
(a) Atlantic City	100%	90%	80%	50%	30%	20%			
(b) South Jersey		8%	12%	28%	43%	45%		25%	50%
(c) North Jersey		2%	8%	22%	27%	35%	35%	50%	50%
(d) Atlantic City through the Atlantic City Fund							65%	25%	

except that, with respect to the obligations for calendar years 1994 through 1998, the amount allocated for the financing of projects in North Jersey from each casino licensee's obligation shall be the amount allocated for calendar year 1993, and the difference between that amount and the amount to be allocated to North Jersey, on the basis of the above schedule, from each casino licensee's obligations for calendar years 1994 through 1998 shall be paid into or credited to the Atlantic City Fund established by section 44 of P.L.1995, c.18 (C.5:12-161.1) and be devoted to the financing of projects in Atlantic City through that fund. For the purposes of this paragraph, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem, except that "South Jersey" shall not include the City of Atlantic City; and "North Jersey" means the remaining 12 counties of the State. For the purposes of this 1984 amendatory and supplementary act, bond "proceeds" means all funds received from the sale of bonds and any funds generated or derived therefrom.

In the financing of projects outside Atlantic City, the Casino Reinvestment Development Authority shall give priority to the revitalization of the urban areas of this State in the ways specified in section 12 of this 1984 amendatory and supplementary act. Those areas shall include, but not be limited to, all municipalities qualifying for aid pursuant to P.L.1978, c. 14 (C. 52:27D-178 et seq.).

Within nine months from the effective date of this 1984 amendatory and

supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in South Jersey for the first seven years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first seven years of the receipt of funds by South Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the seventh year of the receipt of funds by South Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment

Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

Within 36 months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in North Jersey for the first five years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first five years of the receipt of funds by North Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the fifth year of the receipt of funds by North Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of

eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

(2) Commencing with the first year in which a licensee incurs a tax obligation pursuant to this section, and for the period of two years thereafter, 100% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City pursuant to paragraph (1) of this subsection shall be used exclusively to finance the rehabilitation, development, or construction of or to provide mortgage financing of housing facilities in the city of Atlantic City for persons or families of low through middle income, as defined in this subsection. For the purposes of this subsection, the "rehabilitation, development, or construction of housing facilities" shall include expenses attributable to site preparation, infrastructure needs and housing-related community facilities and services, including supporting commercial development. Commencing with the fourth year in which a licensee incurs a tax obligation pursuant to this subsection, 50% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income. Commencing with the 11th year in which a licensee incurs a tax obligation pursuant to this section, 50% of the annual aggregate of



the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City and investments in approved eligible projects commenced by a licensee in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of or to provide mortgage financing of housing facilities in the city of Atlantic City for persons or families of low through middle income.

(3) The Legislature finds that it is necessary to provide for a balanced community and develop a comprehensive housing program. The Casino Reinvestment Development Authority shall determine the need for housing in the city of Atlantic City, in consultation with the city of Atlantic City and specifically its zoning and planning boards. This shall include determining the types and classes of housing to be constructed and the number of units of each type and class of housing to be built. The Casino Reinvestment Development Authority shall give priority to the housing needs of the persons and their families residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act. The actual percentage of the proceeds of bonds and investments in approved eligible projects commenced by a licensee in the city of Atlantic City, which shall be used exclusively to finance the rehabilitation, development, or construction of or to provide mortgage financing of housing facilities in the city of Atlantic City for persons or families of low through middle income, shall be based upon the authority's determination of the need for housing in the city of Atlantic City conducted pursuant to this subsection. Once the housing needs of the persons residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act have been met, as determined by the Casino Reinvestment Development Authority pursuant to this subsection, any required percentages for such housing in the city of Atlantic City may, in its sole discretion, be waived by the Casino Reinvestment Development Authority.

To aid the Casino Reinvestment Development Authority in making these determinations, the Casino Reinvestment Development Authority shall review the proposal for a housing redevelopment program and strategy for the city of Atlantic City approved and adopted by the Casino Control Commission and shall give priority to same and any other plan or project which is consistent with the standards of this subsection and is acceptable to the Casino Reinvestment Development Authority, pursuant to section 25 of this 1984 amendatory and supplementary act. The Casino Reinvestment Development Authority may determine whether the funds used to finance housing facilities in the city of Atlantic City for persons or families of low, moderate, median range, and middle income are derived from the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority to be devoted to the financing of projects in the city of Atlantic City, investments in approved eligible projects commenced by a licensee in the city of Atlantic City, or a combination of both. Any investment made by a licensee in excess of 100% of its eligible investment tax credit during the first three years and in excess of 50% thereafter in either the purchase of bonds or direct investments in approved eligible projects for low, moderate, median range, and middle income family housing facilities in the city of Atlantic City may be carried forward and credited against the licensee's obligation to make a 100% investment during the first three years and 50% thereafter in low, moderate, median range, and middle income family housing in any future year, with the approval of the Casino Reinvestment Development Authority. For the purposes of this act, "low income families" means families whose income does not exceed 50% of the median income of the area, with adjustments for smaller and larger families. "Moderate income families" means families whose income does not exceed 80% and is not less than 50% of the median income for the area, with adjustments for smaller and larger families. "Median range income families" means families whose income does not exceed 120% and is not less than 80% of the median income for the area, with adjustments for smaller and larger families. "Middle

income families" means families whose income does not exceed 150% and not less than 120% of the median income for the area, with adjustments for smaller and larger families. "Median income" means an income defined as median within the Standard Metropolitan Statistical Area for Atlantic City by the United States Department of Housing and Urban Development.

In order to achieve a balanced community, the authority shall ensure that the development of housing for families of low and moderate income shall proceed at the same time as housing for families of median range and middle income, until such time as there is no longer a need for such facilities in the city of Atlantic City, as determined by the Casino Reinvestment Development Authority.

(4) Notwithstanding any other law or section to the contrary, particularly this subsection regarding the waiver of the required percentages for housing in the city of Atlantic City, subsection i. of section 14, and sections 26, 27, 28, 29, and 31 of this 1984 amendatory and supplementary act, nothing shall be implemented or waived by the Casino Reinvestment Development Authority which would reduce, impair, or prevent the fulfillment of the priorities established and contained in this subsection of this 1984 amendatory and supplementary act.

g. If a person is a licensee with regard to more than one approved hotel pursuant to section 82 of P.L.1977, c. 110 (C. 5:12-82), the person shall separately account for the gross revenues, the investment alternative tax obligations, and the investments for a tax credit against the investment alternative tax for each approved hotel, and the tax obligations of the licensee under this section shall be determined separately for each approved hotel. The licensee may apportion investments between its approved hotels; provided that no amount of investment shall be credited more than once. If a licensee receives the prior approval of the Casino Reinvestment Development Authority, the licensee may make eligible investments in excess of the investments necessary to receive a tax credit against the investment alternative tax for a

given calendar year, and the licensee may carry forward this excess investment and have it credited to its next investment alternative tax obligation. If the Casino Reinvestment Development Authority approves of such excess investment and approves the carry forward of this excess investment, and a licensee elects to purchase bonds of the Casino Reinvestment Development Authority or makes direct investments in approved eligible projects in excess of the investments necessary to receive a tax credit against the investment alternative tax for its current obligation, the licensee shall be entitled to a reduction of the amount of investments necessary in future years, which amount shall be determined annually by the Casino Reinvestment Development Authority, taking into account a current market discount rate from the date of the purchase or investment to the date the purchase or investment would have been required to be made.

h. Each casino licensee shall prepare and file, in a form prescribed by the Casino Reinvestment Development Authority, an annual return reporting that financial information as shall be deemed necessary by the Casino Reinvestment Development Authority to carry out the provisions of this act. This return shall be filed with the Casino Reinvestment Development Authority and the Casino Control Commission on or before April 30 following the calendar year on which the return is based. The Casino Control Commission shall verify to the Casino Reinvestment Development Authority the information contained in the report, to the fullest extent possible. Nothing in this subsection shall be deemed to affect the due dates for making any investment or paying any tax under this section.

i. Any purchase by a licensee of bonds issued by or offered through the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this act and subsection b. of this section and all approved eligible investments made by a licensee pursuant to section 25 of this act and subsection b. of this section are to be considered investments and not taxes owed or grants to the State or any political subdivision thereof. As such, a licensee shall have the

possibility of the return of principal and a return on the capital invested as with other investments. Investors in the bonds issued by or offered through the Casino Reinvestment Development Authority shall be provided with an opinion from a recognized financial rating agency or a financial advisory firm with national standing that each loan of bond proceeds by the Casino Reinvestment Development Authority has the minimum characteristics of an investment, in that a degree of assurance exists that interest and principal payments can be made and other terms of the proposed investment be maintained over the period of the investment, and that the loan of the bond proceeds would qualify for a bond rating of "C" or better. If an opinion cannot be obtained from a recognized financial rating agency or a financial advisory firm with national standing, an opinion shall be obtained from an expert financial analyst with national standing, selected and hired by the Casino Reinvestment Development Authority. In order to achieve a balanced portfolio, assure the viability of the authority and the projects, facilities and programs undertaken pursuant to this 1984 amendatory and supplementary act, no more than 25% of the total investments made by or through the Casino Reinvestment Development Authority with the proceeds of bonds generated in each year shall be investments which would qualify for a bond rating of "C", unless all holders of obligations in each year agree to waive the 25% limit for that year. Nothing herein shall be interpreted as limiting the Casino Reinvestment Development Authority from taking any steps it deems appropriate to protect the characteristics of its investment in projects or any other investments from not being real investments with a prospect for the return of principal and a return on the capital invested. Anything contained in this section shall not be considered a guarantee by the State or any political subdivision thereof of any return of principal or interest, but any purchase by a licensee of bonds or approved eligible investments made by a licensee pursuant to this act shall be at the risk of the licensee. A licensee or the licensees purchasing an issue of bonds issued by the Casino Reinvestment Development

Authority in any given year may arrange, at their option, for those bonds or the investments, made by or through the Casino Reinvestment Development Authority with the proceeds of those bonds, to be insured. The cost of any such insurance purchased by a licensee or licensees shall be paid by the licensee or licensees desiring such insurance.

j. The Casino Reinvestment Development Authority shall promulgate rules and regulations deemed necessary to carry out the purposes of this section.

k. The obligation of a licensee to pay an investment alternative tax pursuant to subsection a. of this section, including a casino licensee subject to the provision of section 13 of P.L.2001, c.221 (C.5:12-173.21), shall end for each licensed facility operated by the licensee 50 years after any investment alternative tax obligation is first incurred in connection with each licensed facility operated by the licensee, unless extended in connection with a deferral granted by the Casino Reinvestment Development Authority pursuant to subsection c. of this section.

l. Within 90 days of the effective date of this act, P.L.2004, c.129, the State Treasurer shall certify the amounts that were invested pursuant to this section in South Jersey, as defined in subsection f. of this section, for projects located in the City of Atlantic City. Notwithstanding subsection f. of this section, beginning in State fiscal year 2005, the amount of (a) proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in eligible projects by a licensee devoted pursuant to subsection f., shall not exceed the amount devoted for those purposes in State fiscal year 2004. Any amounts in excess of the amounts devoted in State fiscal year 2004, after fulfilling all fund reservations, bonding and contractual obligations, shall be devoted to the financing of projects in South Jersey. For the purpose of this section, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem, except that the term shall

not include the City of Atlantic City. The provisions of this subsection shall terminate when excess amounts devoted to the financing of projects in South Jersey equal the amount certified by the State Treasurer.

L.1984, c. 218, § 3, eff. Dec. 19, 1984.

Amended by:

L.1985, c. 183, § 1, eff. June 11, 1985.

L.1993, c. 159, § 9, eff. June 20, 1993.

L.1995, c. 18, § 46, eff. Jan. 25, 1995.

L.1996, c. 118, § 3, eff. Sept. 16, 1996.

L.2001, c. 221, § 14, eff. Aug. 24, 2001.

L.2002, c. 65, § 32, eff. Aug. 14, 2002.

L.2004, c. 129, § 1, eff. Aug. 25, 2004.

#### **5:12-144.2 Annual deduction from gross revenue relative to promotional gaming credits**

a. A casino licensee shall receive an annual deduction from the gross revenue taxed pursuant to subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144) in an amount equal to either (1) the promotional gaming credits reported by that licensee in its annual tax return or (2) such other portion of the promotional gaming credits reported by all casino licensees as the commission may allocate to a particular licensee to reflect that licensee's pro rata share of the costs of the 2008 agreement executed between the New Jersey Sports and Exposition Authority and the Casino Association of New Jersey for the benefit of the horse racing industry.

b. Casino licensees shall be allowed a deduction from gross revenues for a tax year pursuant to subsection a. of this section for the total value of promotional gaming credits redeemed by patrons at all licensed casinos for that tax year in excess of \$90,000,000. For the first tax year in which this act becomes operative pursuant to section 3 of this act, P.L.2008, c.12, the commission shall reduce the \$90,000,000 deduction threshold for that tax year in proportion to the part of the tax year that has elapsed prior to that operative date.

c. The commission shall establish, by regulation, procedures and standards for allocating the deduction established pursuant to this section to reflect each licensee's pro rata share of the costs of the 2008 agreement executed between the New Jersey Sports and Exposition Authority and the Casino Association of New Jersey for the benefit of the horse racing industry and procedures and standards for each licensee to take the deduction established pursuant to this section to reflect those deductions that exceed the costs of the 2008 agreement. Such regulations shall include standards for the allocation of the \$90,000,000 deduction threshold established in subsection b. of this section, the timing of the application of deductions, and all other matters related to the provisions of this section.

d. (1) The commission shall establish, by regulation, procedures to ensure that the promotional gaming credit deduction established pursuant to this section does not result in a negative fiscal impact to the Casino Revenue Fund. If necessary, the commission may reduce the value of the available deduction to eliminate any negative fiscal impact to the Casino Revenue Fund attributable solely to the deduction and not to other economic or other factors that cause a negative fiscal impact to the Casino Revenue Fund.

(2) For the purposes of this subsection, "negative fiscal impact to the Casino Revenue Fund" shall mean that the amount generated from taxation of promotional gaming credits falls below the level generated in calendar year 2007.

L.2008, c. 12, § 2, eff. April 11, 2008.

### **5:12-145 Casino revenue fund**

a. There is hereby created and established in the Department of the Treasury a separate special account to be known as the "Casino Revenue Fund," into which shall be deposited all revenues from the tax imposed by section 144 of this act; the investment alternative tax imposed by section 3 of



P.L.1984, c.218 (C.5:12-144.1); the taxes and fees imposed by sections 3, 4 and 6 of P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and any interest and penalties imposed by the commission relating to those taxes; and all penalties levied and collected by the commission pursuant to P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder, except that the first \$600,000 in penalties collected each fiscal year shall be paid into the General Fund for appropriation by the Legislature to the Department of Health and Senior Services, \$500,000 of which is to provide funds to the Council on Compulsive Gambling of New Jersey and \$100,000 of which is to provide funds for compulsive gambling treatment programs in the State. In the event that less than \$600,000 in penalties are collected, the Department of Health and Senior Services shall determine the allocation of funds between the Council and the treatment programs eligible under the criteria developed pursuant to section 2 of P.L.1993, c.229 (C.26:2-169).

b. The commission shall require at least monthly deposits by the licensee of the tax established pursuant to subsection a. of section 144 of P.L. 1977, c. 110 (C. 5:12-144), at such times, under such conditions, and in such depositories as shall be prescribed by the State Treasurer. The deposits shall be deposited to the credit of the Casino Revenue Fund. The commission may require a monthly report and reconciliation statement to be filed with it on or before the 10th day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

c. Moneys in the Casino Revenue Fund shall be appropriated exclusively for reductions in property taxes, rentals, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, as shall be provided by law. On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report accounting for the total revenues received in the Casino

Revenue Fund and the specific amounts of money appropriated therefrom for specific expenditures during the preceding six months ending December 31 and June 30.

L.1977, c. 110, § 145, eff. June 2, 1977.

Amended by:

L.1984, c. 136, § 2, eff. Jan. 1, 1985.

L.1984, c. 218, § 4, eff. Dec. 19, 1984.

L.1991, c. 182, § 58, eff. June 29, 1991.

L.1993, c. 229, § 1, eff. Aug. 6, 1993.

L.2003, c. 116, § 7, eff. July 1, 2003.

L.2004, c. 128, § 2, eff. Aug. 25, 2004.

#### **5:12-145.1 Income from investments; credit to fund**

Any income realized by reason of the investment of the moneys in the "Casino Revenue Fund," established under section 145 of P.L.1977, c. 110 (C. 5:12-145), shall be credited to the fund.

L.1982, c. 26, § 1, eff. April 29, 1982.

#### **5:12-145.2 Income from Investments; determination of amount**

For the purpose of determining the amount of investment income to be credited to the "Casino Revenue Fund," the State Treasurer shall calculate the average rate of earnings from the State's general investments during each fiscal year and apply that rate to the average daily balance of the fund during that fiscal year.

L.1982, c. 26, § 2, eff. April 29, 1982.

#### **5:12-145.3 Casino revenue fund advisory commission; appointment of members; terms; vacancies; reimbursement for expenses**

There is created a commission to be known as the "Casino Revenue Fund

Advisory Commission." The commission shall consist of 15 members to be appointed as follows: two members of the Senate, appointed by the President of the Senate, not more than one of whom shall be of the same political party; two members of the General Assembly, appointed by the Speaker of the General Assembly, not more than one of whom shall be of the same political party; three public members who are senior citizens, one of whom is appointed by the President of the Senate, one of whom is appointed by the Speaker of the General Assembly and one of whom is appointed by the Governor; three public members who are disabled, one of whom is appointed by the President of the Senate, one of whom is appointed by the Speaker of the General Assembly and one of whom is appointed by the Governor; one public member who is a representative of the casino industry to be appointed by the Governor upon the recommendation of the Casino Association of New Jersey; the President of the New Jersey Association of Directors of Area Agencies on Aging, the Chairperson of the New Jersey Association of County Representatives for Disabled Persons, the Director of the Division on Aging in the Department of Community Affairs and the Legislative Budget and Finance Officer, or their designees, who shall serve as ex officio members.

The legislative members shall serve during the two-year legislative session in which the appointment is made. The senior citizen and disabled members shall serve for three year terms or until a successor is appointed; but of the members initially appointed, one of the senior citizens and one of the disabled members shall serve for a term of one year, one of the senior citizens and one of the disabled members shall serve for a term of two years and one of the senior citizens and one of the disabled members shall serve for a term of three years.

Vacancies in the membership of the commission shall be filled in the same manner as the original appointments are made and a member may be eligible for reappointment. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term.

Members shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties but reimbursement of expenses shall be within the limits of funds appropriated or otherwise made available to the commission for its purposes.

L.1992, c. 108, § 1, eff. Sept. 22, 1992.

#### **5:12-145.4 Duties of commission**

The commission shall review the programs funded by the Casino Revenue Fund, established pursuant to section 145 of P.L.1977, c. 110 (C. 5:12-145), and make recommendations to the Legislature annually or more often, if necessary, concerning existing or proposed programs or legislation and the expenditure of these funds. The commission shall also evaluate the need for existing, additional or expanded programs which may be funded from the Casino Revenue Fund and shall advise the Legislature accordingly.

L.1992, c. 108, § 1, eff. Sept. 22, 1992.

#### **5:12-145.5 Organization of commission; election of chairperson and secretary; meetings**

The commission shall organize as soon after the appointment of its members as is practicable. A majority of the commission members shall elect a chairperson from among the members and a secretary who need not be a member of the commission. The commission shall meet at regular intervals but at least on a quarterly basis.

L.1992, c. 108, § 3, eff. Sept. 22, 1992.

#### **5:12-145.6 Use of state and local employees; miscellaneous expenses**

The commission is entitled to call to its assistance and avail itself of the

services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes. The Department of the Treasury shall provide professional, stenographic and clerical assistance which is necessary for the commission to perform its duties. The commission may incur miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

L.1992, c. 108, § 4, eff. Sept. 22, 1992.

#### **5:12-145.7 Annual report**

The commission shall submit an annual report to the Legislature by March 1 of each year.

L.1992, c. 108, § 5, eff. Sept. 22, 1992.

#### **5:12-145.8 Fee of \$3.00 imposed daily on occupied hotel rooms in casino hotel facility**

Notwithstanding the provisions of any other law to the contrary and in addition to any other tax or fee imposed by law, there is imposed a fee of \$3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item. This section shall be administered by the commission and the amounts generated by this section shall be paid to the State Treasurer for deposit in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, \$1.00 of the fee shall be deposited by the State Treasurer into a special fund established and held by the State Treasurer and made available for the exclusive use of the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) for its

purposes pursuant to law, as approved by the membership of the authority, subject to the provisions of subsection e. of section 5 of P.L.2004, c.129 (C.5:12-173.22a). Beginning in State fiscal year 2007 and thereafter, the portion of the proceeds of \$2.00 of the fee necessary to carry out the purpose of subsections a. through c. of section 5 of P.L.2004, c.129 (C.5:12-173.22a) shall be deposited by the State Treasurer into a special fund established and held by the State Treasurer and made available for the exclusive use of the authority to carry out that purpose, and the remaining proceeds of the \$2.00 fee shall be deposited by the State Treasurer into the Casino Revenue Fund.

L.2003, c. 116, § 6, eff. July 1, 2003.

Amended by:

L.2004, c. 128, § 3, eff. Aug. 25, 2004.

L.2004, c. 129, § 2, eff. Aug. 25, 2004.

**5:12-145a Use of moneys in casino revenue fund for programs existing when act enacted; exceptions**

a. Except as otherwise provided in subsection b. of this section, no moneys deposited in the Casino Revenue Fund established by section 145 of the "Casino Control Act," P.L.1977, c. 110 (C. 5:12-145) may be appropriated to fund a program which was established by law on or before the effective date of that act.

b. Moneys deposited in the Casino Revenue Fund may be appropriated, within the limits set forth in the "Casino Control Act," P.L.1977, c. 110 (C. 5:12-1 et seq.), for the costs of a program established on or before the effective date of that act, which costs are the result of:

(1) An increase in benefit levels provided by law after the effective date of the "Casino Control Act," P.L.1977, c. 110 (C. 5:12-1 et seq.); or

(2) An increase in the size of the recipient population due to changes made, pursuant to law enacted after the effective date of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.), in the criteria of eligibility for

the program.

L.1987, c. 167, § 1, eff. July 8, 1987.

### **5:12-146 In lieu tax**

a. Any casino licensee whose licensed premises are located in an area which has been declared, by the Department of Community Affairs and the commission, to be a blighted area, or an area endangered by blight, may, for a period of not more than 25 years, enter into a written agreement with the Department of the Treasury, which agreement shall, with respect to real property held for use as a licensed casino hotel, provide for the payment of taxes to the tax collector of the municipality, in lieu of full local real property tax payments, in an amount to be computed by the sum of the following amounts, payable at the time specified by law for the payment of local property taxes;

(1) An annual amount equal to 2% of the cost of the real property investment. For the purposes of this section, "cost of the real property investment" means only the actual cost or fair market value of direct labor and all materials used in the construction, expansion, or rehabilitation of all buildings, structures, and facilities at the project site, including the costs, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities, and parking facilities, together with architectural, engineering, legal, surveying, testing, and contractors' fees associated with the project; provided, however, that the applicant shall cause such costs to be certified and verified to the Department of the Treasury by an independent certified public accountant, following the completion of the investment in the project; and provided further, however, that upon execution of an agreement pursuant to this section, only real property improvements made after July 6, 1976 shall be subject to the provisions herein; plus

(2) An amount equivalent to the difference between an amount

that would have been payable as property taxes under the full local property tax rate and the amount calculated pursuant to subsection a.(1) of this section, which shall be payable from such profits, if any, as hereinafter defined in section 147, as shall remain after deducting therefrom interest and principal paid on mortgage loans applicable to the real property held for use as a licensed casino hotel. The total payments provided by this section shall not exceed the full local property taxes normally payable for the year.

b. At the time an applicant applies for a license under this act, he shall determine whether to exercise the option to pay in lieu taxes under this section or whether the property of the applicant shall be subject to the normal real property taxes of the municipality. This determination having been made and approved, the method selected may not be changed or altered during the term of the agreement.

c. Upon the filing of a certification by the State Treasurer in any year that an agreement has been entered into pursuant to this section, the in lieu tax provisions of this section shall be applicable with respect to the ensuing tax years.

L.1977, c. 110, § 146, eff. June 2, 1977.

### **5:12-147 Profits**

a. For the purposes of the application of the provisions of section 146 of this act, "profits" referred to in section 146 a.(2) for any year means total profits from cumulative investments in Atlantic City. In computing profits under this section, a licensee shall deduct from the gross income of cumulative investments in Atlantic City all operating expenses in accordance with generally accepted accounting principles. There shall be included in said operating expenses (1) all annual payments pursuant to section 146 a.(1) of this act; (2) property taxes in said municipality not subject to section 146; and (3) an annual amount sufficient to amortize in equal annual installments the



total cost of the investment over the life of the improvements, which in no case shall be less than 25 years in the case of real property. There shall not be included in said operating expenses or in any other account (1) depreciation or obsolescence; (2) interest on debt; (3) taxes on income; (4) losses on bad debt instruments from gaming operations in excess of the lesser of such instruments actually uncollected or 4% of gross revenues; or (5) salaries, bonuses and other compensation paid, directly or indirectly, to directors, partners, officers, stockholders or other persons having any proprietary or ownership interest in the licensee.

b. In any year during which gross income exceeds cumulative investments as defined in section 144 d. hereof, 50% of the profits, as herein defined, which exceed the amount equivalent to 20% of the cumulative investments in the municipality of a licensee who shall have entered into an agreement pursuant to the provisions of section 146 hereof for such year shall be retained in a separate interest-bearing account maintained by the Treasurer, which account shall be designated "Special Casino Retention Account." All amounts retained in such account with respect to a licensee for any year may be recaptured by the licensee, provided that (1) the average annual gross income for the tax year and the two immediately preceding years is less than the cumulative investments of the licensee in casino, hotel, or other facilities in the municipality or State; or (2) the licensee, within 5 years of the date its annual tax return under this act is due, shall make cumulative investments in such municipality which shall cause the total of such investments to exceed the average annual gross income for the tax year and the 2 immediately preceding years, and which are equal to or greater than the amount of profits, as herein defined, retained in such account for the tax year.

c. In the event such licensee fails to make cumulative investments within the time specified as required for recapture of profits under this section, the profits retained in the Special Casino Retention Account shall be remitted to the Treasurer for deposit to the credit of the Casino Revenue Fund.

d. For the purposes of this section, each annual return of such licensee shall reflect the profits, if appropriate, determined on the basis of the immediately preceding calendar year. The commission shall make rules and regulations for the determination of profits under the provisions of this section.

L.1977, c. 110, § 147, eff. June 2, 1977.

#### **5:12-148 Payment of taxes**

a. The tax imposed under section 144 hereof shall be due and payable annually on or before the 15th day of March and shall be based upon gross revenues derived during the previous calendar year. A licensee shall file its first return and shall report gross revenues from the time it commenced operations and ending on the last day of said calendar year. Such report shall be filed with the commission on or before the following March 15.

b. Any other law to the contrary notwithstanding, any business conducted by an individual, partnership, or corporation or any other entity, or any combination thereof, holding a license pursuant to this act shall, in addition to all other taxes imposed by this act, file a consolidated corporation business tax return pursuant to P.L.1945, c. 162 (C. 54:10A-1 et seq.) and pay the taxes indicated thereon. The director of the Division of Taxation shall issue such rules and regulations and design such tax forms as shall be necessary to carry into effect the provisions of this act.

L.1977, c. 110, § 148, eff. June 2, 1977.

#### **5:12-148.1 Tax on certain comps provided by casinos at no cost, reduced price**

a. There is imposed on each casino licensee, through June 30, 2009, a tax on the value of rooms, food, beverages, or entertainment provided at no cost or at a reduced price, as required to be reported to the Casino Control

Commission pursuant to section 102 of P.L.1977, c.110 (C.5:12-102), which tax shall be computed as follows:

(1) if rooms, food, beverages or entertainment are provided at no cost, the tax shall be at a rate of 4.25% on the value of rooms, food, beverages and entertainment;

(2) if rooms, food, beverages or entertainment are provided at reduced cost, the tax shall be at a rate of 4.25% on the value, which taxable value shall be reduced by any consideration paid by the person to whom the rooms, food, beverages or entertainment are provided; provided however, that the imposition of the excise tax as provided in this section is in addition to any tax due under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), on the receipts from the sale of food and beverages, or from amounts paid as a charge for entertainment, or the rents for occupancy of hotel rooms, at reduced cost;

(3) no excise tax shall be imposed on the value of any service or property upon which a sales or use tax has been paid by a casino licensee;

(4) for the purpose of computing the tax, the value of a room complimentary shall be \$67, provided that the commission shall review the room value within 90 days of the effective date of this act, and shall adjust the statutory room value to a rate that, along with the tax imposed pursuant to this section on food, beverages and entertainment, is sufficient to generate \$26 million in State fiscal year 2004, and the commission's review and adjustment shall take into account tax paid under this section by a casino licensee commencing operations in calendar year 2003 in determining whether the adjusted statutory room value would generate \$26 million in State fiscal year 2004;

(5) for the purpose of computing the tax, the value of food, beverages and entertainment complimentaries shall be determined pursuant to section 2 of P.L.1983, c.41 (C.5:12-14a), provided that the value of a beverage complimentary served in a casino room shall be the cost to the casino licensee of providing the beverage; and

(6) for each casino licensee, the amount of tax imposed by this section for State fiscal years 2004 through 2006 shall not be less than the tax that the licensee would have paid if the tax had been in effect for calendar year 2002.

(7) Notwithstanding any other provision of this section to the contrary, the rate and the amount to be raised annually by the tax imposed pursuant to this section shall be as follows: in State fiscal years 2004 through 2006, 4.25% and \$26,000,000; in State fiscal year 2007, 3.1875% and \$19,500,000; in State fiscal year 2008, 2.125% and \$13,000,000; and in State fiscal year 2009, 1.0625% and \$6,500,000.

b. Each casino licensee shall file a return, on a form as prescribed by the commission, and pay the amount of tax due pursuant to this section in the manner and at a frequency as the commission prescribes, but no more frequently than monthly. In prescribing the periods to be covered by the return or intervals or classifications for payment of tax liability, the commission may take into account the dollar volume of tax involved, as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The commission shall administer the tax imposed pursuant to this section. The commission shall determine and certify to the State Treasurer on at least a quarterly basis the amount of tax to be collected by the State Treasurer pursuant to this section. The commission may promulgate such rules and regulations as the commission determines are necessary to effectuate the provisions of this act.

d. (Deleted by amendment, P.L.2004, c.128).

e. The tax imposed by this section, and any interest or penalties imposed by the commission relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

f. In a State fiscal year in which the amount of the tax collected is more or less than is required to be collected pursuant to paragraph (7) of subsection a. of this section, the amount of the shortfall or excess shall be credited or

assessed, as appropriate, to each casino licensee in the same proportion as that casino licensee's tax payments pursuant to this section for that particular State fiscal year bear to the total tax payments received from all casino licensees pursuant to this section for that same State fiscal year.

L.2003, c. 116, § 3, eff. July 1, 2003.

Amended by:

L.2004, c. 128, § 4, eff. Aug. 25, 2004.

### **5:12-148.2 Tax of 8% imposed on multi-casino progressive slot machine revenue**

a. A tax at the rate of 8% is imposed on casino service industry multi-casino progressive slot machine revenue. The tax shall not be considered a tax collectable under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. As used in this section, "casino service industry multi-casino progressive slot machine revenue" means sums received by a casino service industry, licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, net of any money accrued for return to patrons in the form of jackpots, that are directly or indirectly related to: (1) the conduct of multi-casino progressive slot machine system operations in a casino; or (2) the sale, lease, servicing or management of a multi-casino progressive slot machine system. Notwithstanding the foregoing, "casino service industry multi-casino progressive slot machine revenue" shall not be construed to apply to revenue derived from transactions between a casino licensee and its holding company or intermediary companies or their affiliates.

c. The commission shall administer the tax imposed pursuant to this section. The tax imposed by this section, and any interest or penalties imposed by the commission relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145

of P.L.1977, c.110 (C.5:12-145).

d. A casino service industry licensee or applicant required to pay the tax imposed pursuant to this section shall, on or before the 28th day of the month, forward to the State Treasurer the tax owed on casino service industry multi-casino progressive slot machine revenue received by the casino service industry licensee or applicant in the preceding month and make and file a return for the preceding month with the commission on any form and containing any information as the commission shall prescribe by rule or regulation as necessary to determine liability for the tax in the preceding month during which the person was required to pay the tax.

e. The commission may permit or require returns to be made covering other periods and upon any dates as the commission may specify. In addition, the commission may require payments of tax liability to the State Treasurer at any intervals and based upon any classifications as the commission may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the commission may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

f. The commission may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

g. (Deleted by amendment, P.L.2004, c.128).

L.2003, c. 116, § 4, eff. July 1, 2003.

Amended by:

L.2004, c. 128, § 5, eff. Aug. 25, 2004.

### **5:12-148.3 Tax of 7.5% imposed on certain adjusted net income of casino licensees**

a. In State fiscal years 2004 through 2006, a tax at the rate of 7.5% is imposed on the adjusted net income of a casino licensee in calendar year 2002, determined pursuant to information provided by casino licensees to the

commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70) and published on April 2, 2003 in the commission's statement of casino licensee income for the twelve-month period ending on December 31, 2002, without regard to subsequent adjustment to such filing. For a casino licensee that was not in operation in calendar year 2002, the amount of the tax shall be 7.5% of its adjusted net income in State fiscal year 2004, as filed by the licensee with the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70). As used in this section, "adjusted net income" means annual net income plus management fees.

The aggregate amount of tax imposed by this section shall not exceed \$10 million annually for a holder of more than one casino license, and for each casino licensee the tax imposed by this section shall not be less than \$350,000 annually.

b. The commission shall administer the tax imposed pursuant to this section. For a casino licensee that was in operation in calendar year 2002, the tax shall be due and payable to the State Treasurer in four equal payments on September 15, December 15, March 15, and June 15 of each State fiscal year. For a casino licensee that was not in operation in calendar year 2002, the tax in State fiscal year 2004 shall be due and payable to the State Treasurer in four quarterly estimated payments on the basis of adjusted net income in the current quarter, and the licensee shall file an annual return for State fiscal year 2004 no later than October 15, 2004. In State fiscal years 2005 and 2006 for such casino licensee, the tax shall be due and payable to the State Treasurer in four equal payments on September 15, December 15, March 15 and June 15.

c. The tax imposed by this section, and any interest or penalties imposed by the commission relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145

of P.L.1977, c.110 (C.5:12-145).

d. The commission shall certify on September 30, 2003 and annually thereafter the amount of tax required to be paid pursuant to this section. The commission may promulgate such rules and regulations as the commission determines are necessary to effectuate the provisions of this section.

e. (Deleted by amendment, P.L.2004, c.128).

L.2003, c. 116, § 5, eff. July 1, 2003.

Amended by:

L.2004, c. 128, § 6, eff. Aug. 25, 2004.

### **5:12-149 Determination of tax liability**

The commission may perform audits of the books and records of a casino licensee, at such times and intervals as it deems appropriate, for the purpose of determining the sufficiency of tax payments. If a return or deposit required by section 145 with regard to obligations imposed by subsection a. of section 144 of P.L. 1977, c. 110 (C. 5:12-144) is not filed or paid, or if a return or deposit when filed or paid is determined by the commission to be incorrect or insufficient with or without an audit, the amount of tax or deposit due shall be determined by the commission. Notice of such determination shall be given to the licensee liable for the payment of the tax or deposit. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the commission for a hearing, or unless the commission on its own motion shall redetermine the same. After such hearing the commission shall give notice of its determination to the person against whom the tax is assessed.

L.1977, c. 110, § 149, eff. June 2, 1977.

Amended by:

L.1987, c. 354, § 21, eff. Jan. 4, 1988.

L.1993, c. 292, § 34, eff. Dec. 21, 1993.



## **5:12-150 Penalties**

a. Any licensee who shall fail to file his return when due or to pay any tax or deposit when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes. If the commission determines that the failure to comply with any provision of this Article was excusable under the circumstances, the commission may remit such part or all of the penalty as shall be appropriate under such circumstances.

b. Any person failing to file a return, failing to pay the tax or deposit, or filing or causing to be filed, or making or causing to be made, or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this act, or rules or regulations adopted hereunder which is willfully false, or failing to keep any records required by this act or rules and regulations adopted hereunder, shall, in addition to any other penalties herein or elsewhere prescribed, be guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$100,000.00.

c. Except as to those determinations required to be made by the commission pursuant to section 149 of P.L.1977, c. 110 (C. 5:12-149), the certificate of the State Treasurer to the effect that a tax or deposit has not been paid, that a return has not been filed, that information has not been supplied, or that inaccurate information has been supplied pursuant to the provisions of this act or rules or regulations adopted hereunder, shall be presumptive evidence thereof.

d. If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.

L.1977, c. 110, § 150, eff. June 2, 1977.

Amended by:

L.1987, c. 354, § 22, eff. Jan. 4, 1988.  
L.1991, c. 182, § 59, eff. June 29, 1991.  
L.1993, c. 292, § 35, eff. Dec. 21, 1993.

#### **5:12-151 Forms**

In addition to the other powers granted by this act, the commission is hereby authorized and empowered to promulgate and distribute all forms and returns necessary to the implementation of this act.

L.1977, c. 110, § 151, eff. June 2, 1977.

#### **5:12-152 Application of State Tax Uniform Procedure Law**

The taxes imposed by this act shall be governed in all respects by the provisions of the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes, except only to the extent that a specific provision of this act may be in conflict therewith.

L.1977, c. 110, § 152, eff. June 2, 1977.